

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.1097 to 1100 of 2017

and C.M.P.Nos.22641 to 22644 of 2017

Tr.C.M.P.No.1097 of 2017:-

1.Nanjammal
2.Nirmala
3.Kumutha
4.Shanthi
5.Jayanthi
6.C.R.Ponnusamy

... Petitioners/Plaintiffs

Vs.

C.S.Ramasamy

... Respondent/Defendant

Prayer in Tr.CMP.No.1097/17:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.268 of 2016 on the file of the III Additional Subordinate Judge, Coimbatore to be tried along with O.S.No.51 to 56 of 2016 pending on the file of the V Additional District Judge, Coimbatore.

Tr.C.M.P.No.1098 of 2017:-

1.Chinna Venkatachalam
2.Arumugam
3.Marimuthu

... Petitioners/Plaintiffs

Vs.

C.S.Ramasamy

... Respondent/Defendant

Prayer in Tr.CMP.No.1098/17:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.260 of 2016 on the file of the III Additional Subordinate Judge, Coimbatore to be tried along with O.S.No.51 to 56 of 2016 pending on the file of the V Additional District Judge, Coimbatore.

Tr.C.M.P.No.1099 of 2017:-

- 1.V.K.Senthil
- 2.Minor Karan
- 3.V.K.Gurusamy
- 4.Minor Kabil
- 5.Minor Abirami
- 6.Kalamani
- 7.Radhamani

... Petitioners/Plaintiffs

Vs.

C.S.Ramasamy

... Respondent/Defendant

Prayer in Tr.CMP.No.1099/17:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.264 of 2016 on the file of the III Additional Subordinate Judge, Coimbatore to be tried along with O.S.No.51 to 56 of 2016 pending on the file of the V Additional District Judge, Coimbatore.

Tr.C.M.P.No.1100 of 2017:-

- 1.Nanjammal
- 2.P.Kalamani
- 3.Sudamani
- 4.Varadaraj
- 5.Ravichandran
- 6.Ramesh
- 7.Minor Dharnesh
- 8.R.Dinesh
- 9.Minor R.Sanjay
- 10.Minor R.Neekila

... Petitioners/Plaintiffs

Vs.

C.S.Ramasamy

... Respondent/Defendant

Prayer in Tr.CMP.No.1100/17:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.272 of 2016 on the file of the III Additional Subordinate Judge, Coimbatore to be tried along with O.S.No.51 to 56 of 2016 pending on the file of the V Additional District Judge, Coimbatore.

For Petitioner
in all the Tr.CMPs.

: Mr.C.Veerarahavan

For Respondent
in all the Tr.CMPs.

: Mr.S.Mukunth

COMMON ORDER

These Transfer Civil Miscellaneous petitions have been filed to withdraw the suits in O.S.No.268, 260, 264 & 272 of 2016 on the file of the III Additional Subordinate Judge, Coimbatore and to transfer the same to the file of the V Additional District Judge, Coimbatore to be tried along with O.S.Nos.51 to 56 of 2016.

2. In all the transfer CMPs., the ground for transfer of the suits are one and the same and the respondent is also one and the same, who is the sole defendant in all the suits. Therefore, all the four transfer CMPs. are disposed of by this common order.

3. According to the petitioners, there are the absolute owners of the respective suit property mentioned in each of the schedule and the lands were acquired by the Tamil Nadu Housing and Urban Development Department. All the land owners of the respective properties have challenged the said acquisition proceedings, by filing writ petition in W.P.No.4079 of 1989 and the said writ petition was dismissed. Against which, they preferred an Writ Appeal, wherein, the acquisition proceedings were quashed by this Court allowing the Writ Appeal. Aggrieved over the said order, the Tamil Nadu Housing Board had preferred SLPs. Subsequently, the said SLPs. were withdrawn with liberty to file review petitions. Thereafter, the Tamil Nadu Housing Board filed review petition and vide order dated 01.04.1998, this Court had allowed the same.

4. Whiles, the respondent herein approached the petitioners and other land owners, who were the plaintiffs in O.S.Nos.51 to 56 of 2016 and made false promise that he could get the acquisition proceedings dropped and could construct the apartments, houses villas for them. By giving such a false promise, the respondent obtained signatures in several blank papers and the respondent also during the month of September 2005 took the petitioner and other land owners to the Sub Registrar Office and got the sale deed executed. At the time of execution, the respondent persuaded the petitioners that for clearing the acquisition proceedings through judicial process, he needs some money and gained the entire sale consideration from them. Believing the words of the respondent, the petitioners and other land owners have returned the money to the respondent, by encashing the demand drafts. When the petitioners and other land owners after a lapse of time, visited

the disputed property, they came to know that the respondent had cheated them and grabbed the property. Hence, the petitioners and other land owners filed the suits to cancel the sale deed executed by them and for other reliefs. Since the issue involved in O.S.Nos. 51 to 56 of 2016 [suits filed by the other land owners] and O.S.Nos.268, 260, 264 and 272 of 2016 [suits filed by the petitioners herein] are one and the same, the present Transfer Civil Miscellaneous Petitions have been filed with the aforesaid prayer.

5. Learned counsel for the petitioners would submit that in order to avoid multiplicity of proceedings and conflicting judgments, it is just and necessary that the suits are to be tried jointly and hence, prayed for allowing the petitions.

6. On the other hand, learned counsel appearing for the respondent submitted that the petitioners are not one and the same in all the suits. Moreover, the petitioners can very well redress their grievance before the District Court and they cannot maintain these petitions as the transfer which they sought for is within the State. It is further contended that the petitioners and other land owners have sold the property to the respondent for a valuable sale consideration and the respondent is the absolute owner of the property and that the petitioners and other land owners have filed the above suits and various petitions in order to extract further money from the respondent and hence, prays for dismissal of the petitions.

7. Heard the learned counsel for the petitioners as well as respondent and perused the materials available on record.

8. From the reading of the averments made in the plaint filed along with the typed set of papers, it is seen that all the suits, i.e., O.S.Nos.51 to 56 of 2016 and the suits filed by the petitioners herein [O.S.Nos.268, 260, 264 and 272 of 2016] were filed only and against the respondent herein and reliefs sought for is one and the same. The contention of the learned counsel for the petitioners is that in order to avoid conflicting decisions, all the suits must be heard jointly and disposed by the same court. I find force in the submission made by the learned counsel for the petitioners.

9. In the result, all the Transfer Civil Miscellaneous Petitions are allowed. The suits in O.S.Nos.268, 260, 264 and 272 of 2016 are withdrawn from the file of III Additional Sub Court, Coimbatore and transferred to the file of V Additional District Judge, Coimbatore to be tried along with O.S.Nos.51 to 56 of 2016. The learned V Additional District Judge, Coimbatore, is directed to dispose of all the suits as expeditiously as possible, not later than four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional Subordinate Judge,
Coimbatore.

2. The V Additional District Judge,
Coimbatore.

+1cc to Mr.SARVABHAUMAN ASSO., Advocate, S.R.No.26463

+1cc to Mr.C.VEERARAGHAVAN, Advocate, S.R.No. 25885

Tr.C.M.P. Nos.1097
to 1100 of 2017
and C.M.P.Nos.22641
to 22644 of 2017

SG(CO)
TR(16/05/2018)

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